

State Bar's Proposal (5/20/09)

ATTACHMENT B

SAMPLE TRUST ACCOUNT OVERDRAFT NOTIFICATION AGREEMENT

[May 2009]

The undersigned, being a duly authorized officer of the named financial institution and the person or persons specifically authorized to enter into this agreement, hereby applies to be approved to hold lawyer trust accounts, including IOLTA and non-IOLTA accounts pursuant to the requirements of Michigan Rule of Professional Conduct 1.15. In consideration for the approval, the institution agrees to comply with the overdraft reporting requirements set forth in Michigan Rules of Professional Conduct 1.15A as amended from time to time.

The named financial institution agrees:

A. To report to the Attorney Grievance Commission and to the account holder when any properly payable instrument is presented against an account which they are informed is a lawyer's trust account containing insufficient funds or when any other debit to such account would create a negative balance in the account, whether or not the instrument or other debit to the account is honored and irrespective of any overdraft protection or other similar privileges that may attach to such account. The financial institution acknowledges that trust account funds may not be used for overdraft protection or similar privileges for any other account.

B. That all such reports shall contain the following information:

- a) The identity of the financial institution
- b) The identity of the account holder
- c) The account number
- d) Information identifying the transaction item
- e) The amount of overdraft and date created and either:
 - 1. The amount of the returned instrument or other dishonored debit and the date returned or dishonored,
or
 - 2. Date of presentation for payment and the date paid

C. That, in the case of a dishonored instrument or other dishonored debit, the financial institution may submit a copy of the dishonored instrument or evidence of the other dishonored debit and a copy of the notice of dishonor it sends to the account holder if the notice of dishonor contains the information at B(a)-(e) above. This information may be provided in electronic format.

D. That the information required by this agreement shall be provided within five banking days of the date the item was paid or returned unpaid.

E. That the financial institution will respond to reasonable requests from the State Bar of Michigan and the Attorney Grievance Commission regarding the reports it makes and its internal processes pertaining to instruments presented against accounts containing insufficient funds or pertaining to other debits to such accounts that would create a negative balance in the account, so that any problems can be solved and administrative systems can be improved as needed.

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F. That this agreement applies to the financial institution for all of its locations doing business in Michigan and to any successor entity or acquiring entity to the financial institution and cannot be cancelled by the financial institution except on one hundred twenty (120) days notice in writing to the State Bar of Michigan. Upon notice of cancellation or termination of the agreement, the financial institution agrees that it will notify all of its holders of trust accounts who are subject to the provisions of MRPC 1.15A at least ninety (90) days prior to termination of approved status that the financial institution will no longer be approved to hold such trust accounts. This agreement continues in effect until it is cancelled or terminated, subject to the notice provisions herein.

G. That the State Bar of Michigan may terminate this agreement on one hundred twenty (120) days written notice to the financial institution if the State Bar determines in its sole discretion that the financial institution has failed to comply with the terms of this agreement. Within this 120-day period, the State Bar may offer the financial institution an opportunity to correct such non-compliance and to submit written verification that the non-compliance has been corrected. Occasional inadvertent errors in reporting pursuant to this agreement shall not constitute a basis for terminating this agreement.

H. That the designation of a financial institution as an approved depository pursuant to the trust account overdraft reporting requirements referenced herein shall not be deemed to be a warranty, representation, or guaranty as to the financial soundness, business practices, or other attributes of such institution. Approval of an institution means only that the financial institution has signed this agreement and will comply with its requirements related to trust account overdraft reporting.

I. That within 30 days after the change of financial institution information included in this agreement (e.g., through change of contact person, change of bank name, bank merger, acquisition, agreement for sale of assets, etc.) the financial institution will notify the State Bar of Michigan in writing of such change.

Date:

Signature of authorized officer

Name and designation of authorized officer (please type or print)

Financial Institution Contact Information:

Current Address of Attorney Grievance Commission to which all Overdraft Reports should be sent:

243 W. Congress Street, Suite 256

Detroit, MI 48826

Phone:

Fax:

E-mail:

Notary clause